

Title 16, Division 4. Board of Chiropractic Examiners.

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Examiners (hereafter "Board") is proposing to add regulations described in the Informative Digest below. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by the Board of Chiropractic Examiners at its office no later than 5:00 p.m. on March 4, 2013

The Board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the board. The request must be received in the board office no later than 15 days before the close of the written comment period.

The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 1000-4(b), 1000-4(e) and 1000-10 of the Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii); sections 27, 104, 475 and 1003 of the Business and Professions Code and sections 11514 and 11522 of the Government Code and to implement, interpret or make specific sections 1000-4, 1000-5, 1000-7, 1000-10, 1000-12 and 1000-15 of the Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii); sections 104, 136, 141, 475, and 480 of the Business and Professions Code; section 30403 of Title 17 of the Administrative Code and section 25568.1 of the California Health and Safety Code; the board is considering changes to Title 16, Division 4, of the California Code of Regulations as follows:

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

The Chiropractic Initiative Act Section 1000 – 4(b) authorizes the board to adopt regulations as they may deem proper and necessary for the performance of its work, the effective enforcement and administration of this act, the establishment of educational requirements for license renewal, and the protection of the public.

This proposal would make regulatory changes to enhance the board's enforcement and administrative processes by defining terms in regulation, establishing reporting and disclosure requirements, and amending regulations specific to its disciplinary guidelines and applicant requirements. These changes would increase the Board's enforcement

authority and access to critical information for use in investigations to improve efficiency in enforcement processes and procedures for enhanced consumer protection.

The Board is proposing to make the following changes:

1. Amend Section 303.

This proposal would amend section 303 to include a requirement for all licensees to file a proper and current physical practice address, and where appropriate, each and every satellite office. This section would also require licensees who do not have a practice address, to file a proper and current residence address. The address provided shall be public information unless an alternate address, a post office box number, is submitted in addition to the physical practice or residence address. This section would further require licensees to report every change of address, in writing and mailed or faxed to the Board, within 30 days after each change, giving both the old and new address

2. Amend Section 304.

This proposal would amend section 304 to expand the board's authority to take disciplinary action or deny a license for any disciplinary action taken against a licensee by another licensing entity or authority of this state or an agency of the federal government or province thereof, or the United States Military or a foreign government or any other jurisdiction. Any disciplinary action taken against a licensee by entities listed in this section shall constitute unprofessional conduct.

3. Amend Section 306.3

This proposal would amend section 306.3 to consider a licensee's failure to allow an inspection of the chiropractic office premises as unprofessional conduct.

4. Amend Section 308.

This proposal would amend section 308 to define the use of a pocket license and establish display requirements for pocket and wall licenses. This proposal would make technical changes to the title "Doctor of Chiropractic" for consistency throughout the regulations.

5. Amend Section 312.

This proposal would amend section 312 to clearly define an unlicensed individual providing treatment in a chiropractic office, the requirements of the chiropractor prior to referring a patient to an unlicensed individual, the scope of practice and level of supervision required for an unlicensed individual and prohibited acts by an unlicensed individual. A penalty of unprofessional conduct was added for any violation of this section.

6. Amend Section 314.

This proposal would amend section 314 to broaden a licensee's requirements for reporting violations to include all statutes governing the practice of chiropractic.

7. Add Section 317.2.

This section would prohibit the inclusion of gag clauses in civil agreements arising from disputes related to the chiropractor's practice and define a violation of this section as unprofessional conduct.

8. Add Section 317.3.

This section would set forth licensee reporting requirements for indictments, felony charges and convictions and define a failure to comply with these requirements as unprofessional conduct.

9. Add Section 321.1.

This section would establish the Board's authority to require applicants suspected of impairment due to a mental or physical illness to be examined for competency and grant the Board authority to deny applicants based on the results of such examination. This section would direct the Board to pay the full cost of the examination. Lastly this section would establish consequences for non-compliance.

10. Add Section 384.1.

This section would establish factors that the Board may consider as evidence of rehabilitative or corrective measures taken by a licensee who petitions the Board for reinstatement of a license, reduction of penalty or early termination of probation. This section incorporates the Petition for Reinstatement, Petition for Early Termination of Probation and the Petition for Reduction of Penalty forms by reference.

11. Add Section 390.7.

This section would mandate the Board to revoke a license for any act of sexual contact as defined in subdivision (c) of Section 729 of the Business and Professions Code. This section would also prohibit a proposed decision from containing a stay of the revocation.

12. Add Section 390.8.

This section would require the Board to take specified administrative and disciplinary actions against individuals who are required to register as a sex offender. This section would also define exemptions to these requirements.

POLICY STATEMENT OVERVIEW/ANTICIPATED BENEFITS OF PROPOSAL

The health and safety of chiropractic patients will be strengthened through this proposal by setting stricter standards for discipline of applicants and licensees who have administrative

and/or criminal violations. Additionally, clarification of license posting requirements and duties and supervision of unlicensed individuals working in chiropractic offices will ensure that consumers receive treatment, as outlined in this proposal, by a licensed chiropractic professional.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

The Board has evaluated this regulatory proposal and it is not inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for which Government Code Sections 17630 Require Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

Effect on Small Business:

The Board has determined that this regulatory proposal would not affect small businesses because this proposal would primarily affect licensees and applicants who have had discipline taken against them either administratively or criminally. This proposal would further clarify license posting requirements and the scope and supervision of unlicensed individuals working in a chiropractic office, but would not mandate any measures that would have a significant fiscal impact upon businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulations:

The health and safety of chiropractic patients will be strengthened through this proposal by setting stricter standards for discipline of applicants and licensees who have administrative and/or criminal violations. Additionally, clarification of license posting requirements and duties and supervision of unlicensed individuals working in chiropractic offices will ensure that consumers receive treatment, as outlined in this proposal, by a licensed chiropractic professional.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements in writing relevant to the above determinations to the address provided above.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, the initial statement of reasons, and all the information, upon which the proposal is based, may be obtained upon written request from:

Dixie Van Allen, Program Analyst
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833
(916) 263-5329
Fax (916) 263-5369
dixie.vanallen@CHIRO.ca.gov

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the web site, **www.chiro.ca.gov**.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Name: Dixie Van Allen, Program Analyst
Address: 2525 Natomas Park Drive, Suite 260
Sacramento, California 95833
Telephone: (916) 263-5329
Fax: (916) 263-5369
E-mail: dixie.vanallen@CHIRO.ca.gov

The backup contact person is:

Name: Robert Puleo
Address: 2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833
Telephone: (916) 263-5355
Fax: (916) 263-5369
E-mail: chiro.info@chiro.ca.gov

Web Site Address: Materials regarding this proposal can be found at www.chiro.ca.gov.